



Finn Dusenberry  
[finn@ottingerlaw.com](mailto:finn@ottingerlaw.com)

<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
<b>DOC #:</b> _____
<b>DATE FILED:</b> 8/26/2021

401 Park Avenue South  
 New York, NY 10016  
 (212) 571-2000

535 Mission Street, 14th Fl.  
 San Francisco, CA 94105  
 (415) 262-0096

OTTINGERLAW.COM

August 25, 2021

By ECF

Hon. Stewart D. Aaron  
 United States Magistrate Judge  
 United States District Court  
 Southern District of New York  
 500 Pearl St  
 New York, NY 10007

**ENDORSEMENT:** The parties shall file a joint letter regarding the status of discovery on October 26, 2021. The Court expects the parties to cooperate and file a joint letter as ordered. SO ORDERED.  
 Dated: August 26, 2021

*Att cl an*

**Re: Pagan v. C.I. Lobster Corp., et al.  
 No. 20-cv-7349 (ALC)(SDA)**

Dear Judge Aaron:

As you know, we represent Plaintiff and the putative class in the above-referenced matter. Pursuant to the Court's Order dated August 11, 2021, I write to provide a status update to the Court as to discovery.

The parties have served discovery requests on one another. Plaintiff received Defendants' responses, though they were more than three weeks late and provided only after a meet and confer call. After receiving the responses, on August 2, 2021, Plaintiff sent Defendants a deficiency letter. Plaintiff attempted to meet and confer on the issues raised in the deficiency letter, including class-wide discovery, on Friday, August 20, 2021, and Defendants' counsel stated he needed to check with his client as to responses (despite having had weeks to do so since the deficiency letter was sent) and would respond in writing. To satisfy meet and confer obligations, Plaintiff agreed that Defendants would respond in writing by Thursday, August 26, 2021, with a meet and confer scheduled for Friday, August 27, 2021.

Earlier today, I emailed a draft joint letter to Defendants, pursuant to the Court's Order dated August 11, 2021, which was issued after Defendants failed to provide any input to the first letter providing an update on discovery, in violation of the Court's Order dated June 10, 2021 approving the Case Management Plan. In response to my email, Defendants wrote, "You need to add that your responses are outstanding, that you asked for an extension of time to respond, and that Defendants consented. Also, we did not attempt to meet and confer [on August 20, 2021]; we did meet and confer and agreed to proceed as written. Then it can be filed. Please let me see a revised letter as I am out of the office sick today."<sup>1</sup>

---

<sup>1</sup> Attached hereto as Exhibit A is the email chain at issue.

8/25/21

Page 2 of 2

Defendants were obviously capable of making these revisions themselves, as Mr. Kataev wrote them in an email and Mr. Milman is also available to make revisions. Further, it is presumptuous for Defendants to command me to put proposed edits in a letter on their behalf that I have not even agreed to. If anyone has acted uncivilly here, it is Defendants, notwithstanding their false and overblown indignation. I would have hoped that the parties would not bother the Court with something so trivial and could actually get to the merits of this case (which Defendants seem reluctant to do, for whatever reason), but perhaps that was wishful thinking.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Finn Dusenberry  
Finn Dusenberry

# Exhibit A

**Re: Lobster**

Finn Dusenberry <finn@ottingerlaw.com>

Wed 8/25/2021 1:57 PM

To: Emanuel Kataev <Emanuel@mllaborlaw.com>

Cc: Richard Milman <rich@mmmlaborlaw.com>; Robert Ottinger <robert@ottingerlaw.com>

And you seem well enough to type emails so I'm not sure why you can't just type your proposed revisions. I'm leaving attempted to meet and confer. If you see it differently, write your own section.

Finn Dusenberry  
The Ottinger Firm, P.C.  
401 Park Ave S  
New York, NY 10016  
Cell: (607) 437-1168  
[www.ottingerlaw.com](http://www.ottingerlaw.com)

*This message and any attachments are intended solely for the use of the addressee(s) and may contain confidential and/or privileged information. If you are not the intended recipient of this message, you may not use, disseminate, or copy this message or any attachments. If you have received this message in error, please notify us immediately at [robert@ottingerlaw.com](mailto:robert@ottingerlaw.com) and delete this message and any attachments from your system. Any unauthorized use, dissemination, or copying of this message or any attachments is strictly prohibited. Thank you.*

DUE TO COVID-19, AS WELL AS THE SHELTER IN PLACE EXECUTIVE ORDER ISSUED BY THE GOVERNOR OF CALIFORNIA, OUR OFFICE WILL BE WORKING REMOTELY STARTING MARCH 17, 2020. ANY CORRESPONDENCE SENT TO OTTINGER EMPLOYMENT LAWYERS BY U.S. MAIL, OVERNIGHT DELIVERY, OR OTHERWISE, SHOULD ALSO BE SENT TO THE INTENDED RECIPIENT(S) ELECTRONICALLY VIA E-MAIL OR FACSIMILE. DURING THIS TIME, WE ASK THAT YOU PLEASE BE PATIENT WHILE WE GET BACK TO YOU.

---

**From:** Finn Dusenberry <finn@ottingerlaw.com>  
**Sent:** Wednesday, August 25, 2021 1:54 PM  
**To:** Emanuel Kataev <Emanuel@mllaborlaw.com>  
**Cc:** Richard Milman <rich@mmmlaborlaw.com>; Robert Ottinger <robert@ottingerlaw.com>  
**Subject:** Re: Lobster

Then Richard can write your part. I'm not a secretary for Milman Labuda.

Finn Dusenberry  
The Ottinger Firm, P.C.  
401 Park Ave S  
New York, NY 10016  
Cell: (607) 437-1168  
[www.ottingerlaw.com](http://www.ottingerlaw.com)

*This message and any attachments are intended solely for the use of the addressee(s) and may contain confidential and/or privileged information. If you are not the intended recipient of this message, you may not use,*

disseminate, or copy this message or any attachments. If you have received this message in error, please notify us immediately at [robert@ottingerlaw.com](mailto:robert@ottingerlaw.com) and delete this message and any attachments from your system. Any unauthorized use, dissemination, or copying of this message or any attachments is strictly prohibited. Thank you.

DUE TO COVID-19, AS WELL AS THE SHELTER IN PLACE EXECUTIVE ORDER ISSUED BY THE GOVERNOR OF CALIFORNIA, OUR OFFICE WILL BE WORKING REMOTELY STARTING MARCH 17, 2020. ANY CORRESPONDENCE SENT TO OTTINGER EMPLOYMENT LAWYERS BY U.S. MAIL, OVERNIGHT DELIVERY, OR OTHERWISE, SHOULD ALSO BE SENT TO THE INTENDED RECIPIENT(S) ELECTRONICALLY VIA E-MAIL OR FACSIMILE. DURING THIS TIME, WE ASK THAT YOU PLEASE BE PATIENT WHILE WE GET BACK TO YOU.

---

**From:** Emanuel Kataev <Emanuel@mllaborlaw.com>  
**Sent:** Wednesday, August 25, 2021 1:45 PM  
**To:** Finn Dusenberry <finn@ottingerlaw.com>  
**Cc:** Richard Milman <rich@mmlaborlaw.com>; Robert Ottinger <robert@ottingerlaw.com>  
**Subject:** Re: Lobster

Finn:

You need to add that your responses are outstanding, that you asked for an extension of time to respond, and that Defendants consented. Also, we did not attempt to meet and confer; we did meet and confer and agreed to proceed as written. Then it can be filed. Please let me see a revised letter as I am out of the office sick today. Thanks,

Emanuel Kataev, Esq.  
Associate  
Milman Labuda Law Group PLLC  
Sent from my iPhone

On Aug 25, 2021, at 12:58 PM, Finn Dusenberry <[finn@ottingerlaw.com](mailto:finn@ottingerlaw.com)> wrote:

Emanuel,

Please see attached a draft joint letter to the Court re: discovery. It is due today. Let me know if you have any proposed revisions.

Finn Dusenberry  
The Ottinger Firm, P.C.  
401 Park Ave S  
New York, NY 10016  
Cell: (607) 437-1168  
[www.ottingerlaw.com](http://www.ottingerlaw.com)

*This message and any attachments are intended solely for the use of the addressee(s) and may contain confidential and/or privileged information. If you are not the intended recipient of this message, you may not use, disseminate, or copy this message or any attachments. If you have received this message in error, please notify us immediately at [robert@ottingerlaw.com](mailto:robert@ottingerlaw.com) and delete*

*this message and any attachments from your system. Any unauthorized use, dissemination, or copying of this message or any attachments is strictly prohibited. Thank you.*

DUE TO COVID-19, AS WELL AS THE SHELTER IN PLACE EXECUTIVE ORDER ISSUED BY THE GOVERNOR OF CALIFORNIA, OUR OFFICE WILL BE WORKING REMOTELY STARTING MARCH 17, 2020. ANY CORRESPONDENCE SENT TO OTTINGER EMPLOYMENT LAWYERS BY U.S. MAIL, OVERNIGHT DELIVERY, OR OTHERWISE, SHOULD ALSO BE SENT TO THE INTENDED RECIPIENT(S) ELECTRONICALLY VIA E-MAIL OR FACSIMILE. DURING THIS TIME, WE ASK THAT YOU PLEASE BE PATIENT WHILE WE GET BACK TO YOU.

<Joint Letter re discovery 8-25-21.docx>